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## MINUTES

### ***FOURTH QUARTERLY MEETING COLORADO GROUND WATER COMMISSION NOVEMBER 21, 2008***

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The Fourth Quarterly Meeting of the Colorado Ground Water Commission took place on November 21, 2008, in Room 318, Centennial Building, 1313 Sherman St. Denver Colorado. Chairman Max Smith called the meeting to order at 10:00 a.m. Mr. Rick Nielsen called the roll and determined that a quorum was present. Commission members present were Grant Bledsoe, Carolyn Burr, Dennis Coryell, Corey Huwa, Earnest Mikita, George Schubert, Doug Shriver, Max Smith, Alex Davis, Jennifer Gimbel and Dick Wolfe. Staff members present were Kevin Rein, Keith Vander Horst, Rick Nielsen, Chris Grimes, Justina Mickelson, David Keeler, Melissa Peterson, Jay Bloomfield, Pat Kowaleski, A.G. and Devin Odell, A.G.

**Review and Approval of Agenda Items** – the agenda was approved as proposed.

**Approval of Minutes for Meeting of August 15, 2008** Chairman Smith asked if there were any corrections or additions to the Minutes of the regular August 15, 2008 meeting. Commissioner Coryell moved to accept the Minutes as presented; the motion was seconded by Commissioner Shriver and carried unanimously.

#### **Report of the Executive Director by Dick Wolfe**

On personnel matters Mr. Wolfe informed the Commission that two of the three senior management positions had been filled. Mr. Mike Sullivan, former Division Engineer for Water Division 3 in the San Luis Valley, was appointed Deputy State Engineer. Mike first worked for the Division in the late 1980's in the Designated Basins Branch before moving on. He returned to the Division about twelve (12) years ago and has been Division Engineer in Division 3 for about three (3) years. Also, Mr. Kevin Rein was appointed as Assistant State Engineer in charge of intrastate water supply and development and litigation. He also advised the Commission that the candidates for the remaining Assistant State Engineer position overseeing the public safety section (dam safety and water well construction/inspection), decision support system, the hydrographic branch and geotechnical sections had taken the written test on Monday the 17<sup>th</sup> and that he hoped to have that position filled by the middle of December.

Regarding the four positions authorized for the Republican River Mr. Wolfe stated that three of the positions, the PE-II, a technician position and the engineering assistant position had received a variance from the hiring freeze by the governor's office. He advised the Commission that the testing for the supervisory position was occurring at the present time and the other two positions had been advertised.

Mr. Wolfe took time to acknowledge the above and beyond work of staff members actively involved with the well measurement rules adopted this past July. The Rules require that all wells be equipped with a totalizing flow meter or have an approved alternate method of measuring the pumping by March 1, 2009. Currently nearly 100% of the wells using the PCC (Power Conversion Coefficient) method and 70% of the wells utilizing totalizing flow meters are

in compliance with the Rules. He thanked these individuals for taking on the additional duties until the positions approved by the Legislature for enforcement of the Rules are filled.

On other matters involving the Republican River. A special board meeting has been set for December 12, 2008 to approve the Compact Compliance Pipeline. Though the Commissioners will be meeting by telephone, the public can attend here in room 318 at 8:30. Further, the 15 million dollar bond issue presented to the voters of Yuma County to purchase the surface water rights on the North Fork of the Republican River did pass. That money combined with the 5 million dollars put up by the Republican River Water Conservation District will buyout the remaining surface water user's on the North Fork. Last week the CWCB approved low interest loans to both the Yuma County Water Improvement Authority and the district for the funds to purchase the surface water.

In Water Division 2, the Arkansas River Basin, the draft rules for surface water irrigation consumption will be reviewed by the Arkansas River Compact Administration at their December 8<sup>th</sup> and 9<sup>th</sup> meeting. It is hoped that the final draft will be presented to the water court early next year with enactment sometime in 2010. Again the number of people and entities involved are too many to mention but I would like to mention that the CWCB did provide some of the funding for this project.

In Water Division 3, the Rio Grande Basin, seven days of trial were just completed regarding the first sub-district created by the Rio Grande Water Conservation District and approval their water management plan. These plans have three principal components to them. First, to protect senior water rights, much like a plan for augmentation, however they are distinct from an augmentation plan because the second component, to restore and sustain the aquifer, is a specific requirement for those plans. The third component is that the plan cannot interfere with compliance on the Rio Grande Compact. Mr. Wolfe will create an advisory committee, much like that on the Arkansas River, to help promulgate well compliance rules in the Basin.

Mr. Wolfe concluded his report by congratulating Commissioners Clever and Coryell on their reappointment to the Commission.

In addressing Mr. Wolfe's report Commissioner Davis advised the Commission that the CWCB would not have had the money to loan for the purchase of the water rights or the pipeline if Amendment 52 had passed.

**Chairman Smith called for agenda item no. 5**, and opened the hearing on the amendment to Rule 7.7.4 of the Rules and Regulations for the Management and Control of Designated Ground Water, involving changes of types of use and export of water outside of a Ground Water Management District. See separate minutes.

**Chairman Smith called for agenda item no. 6, whereby Mr. Keith Vander Horst presented the staff report.** Mr. Vander Horst provided a breakdown of the permit activity for the quarter. He pointed out that the reduced activity in the final permit area is due to staff assignments and being under staffed. Regarding hearings, Mr. Vander Horst reported that in addition the five closed cases listed, staff has been busy resolving many of the objections to final permits filed by the North Kiowa Bijou District. Additionally, in his initial decision, the Hearing Officer has denied the two petitions to expand the boundaries of the Kiowa Bijou Basin. Mr. Vander Horst further

advised the Commission that staff investigated a complaint in the Arikaree District verifying permit compliance and that staff is pursuing enforcement actions in Marks Butte, Arikaree and Kiowa Bijou Management Districts. Mr. Vander Horst spoke briefly about the Pioneer case, the measurement rules, acknowledging the work of Chris Grimes, Dave Keeler and Devin Ridnour. He also touched on the progress in filling the Republican River team positions and the position left vacant with the transfer of Sarah Reinsel.

Commissioner Mikita asked for clarification of the abbreviations used in the staff activity report. Specifically he is interested in the difference between Upper Black Squirrel Creek and Big Sandy Creek abbreviations.

**Chairman Smith called for agenda item no. 7, whereby Mr. Devin Odell presented the report of the Attorney General.** Mr. Odell reported that the Cargill case has been settled. He stated that there are a lot of hearings scheduled over the next few months.

**Chairman Smith called for agenda item no. 8, the District reports.**

Mr. Nate Midcap, reporting for **Central Yuma, Sandhills, Frenchman and Marks Butte GWMDs** stressed not only the importance of the vote approving the bond issue to purchase the surface water rights of the Pioneer Ditch but also the impact that it will have on the citizens of Yuma County. Mr. Midcap expressed concern over the loss of funding for the static water level measurement program. He noted that the program has been going on for forty (40) years and that his districts do not have the money to fund the program. He volunteered to write letters to the governor requesting reinstatement of the funds. Mr. Midcap concluded his report by observing that if the weather holds they should be able to get the corn harvested.

Commissioner Bledsoe expressed his appreciation for and commended the efforts of Mr. Midcap in relation to the passage of the bond issue in Yuma County.

Mr. Jack Dowell reported for **W-Y GWMD** advised that he inspected the chemigation systems on over 150 wells this year. Of those ten (10) failed due to the back flow valve. Out of those ten (10), nine are back in operation. He reported that the sugar beets have been harvested with a good yield, that the farmers are waiting for the corn to mature before harvesting and that enforcement of the measurement rules is progressing. Mr. Dowell also advised the Commission that the District had awarded a contract for the removal of weeds, Russian Olive and Salt Cedar on 351 acres along the Republican and Arikaree Rivers. As to the Russian Olive and Salt Cedar, Yuma pest control will provide the herbicide to kill the roots.

There was no report for the **Arikaree GWMD**.

Ms. Deb Daniel reported for **Plains and East Cheyenne GWMDs**. Ms. Daniel reported that the average rainfall to-date in the Plains District is 20.75 inches, almost twice the normal average for the year and some areas have received up to 28 inches. Parts of East Cheyenne have received almost 14.85 inches. The downside of all this moisture and cool weather is that the corn is not maturing. The Plains District held a public meeting where Dave Keeler and Devin Ridnour presented the measurement rules and answered questions from the public. Ms. Daniel reported that most if not all of the PCC calculations have been completed and there are several companies installing totalizing flow meters on the remaining wells to meet the March 1<sup>st</sup>

deadline. She advised the Commission that the East Cheyenne District is considering requiring measurement devices for all large capacity wells in their district. She also informed the Commission that there are several land owners considering applying for the commingling of their wells. Ms. Daniel expressed gratitude to all those involved in the successful passage of the bond issue. She pointed out that that decision will affect not only Yuma County but all the water users in the Republican River Drainage Basin. She echoed Mr. Midcap in expressing regret that the funding for the static water level measurement program was withdrawn this year. She highlighted the importance of this program by referencing charts and graphs which show water level declines in her districts. The charts and graphs that she uses in her work were created by Michael Schaub of the Division of Water Resources utilizing the data gathered from this program. Ms. Daniel concluded her report by inviting the Commission to the Water Preservation Conference sponsored by the Plains Ground water Management District. The conference which will focus on the preservation of the quantity and quality of the Ogallala aquifer will be held on December 2<sup>nd</sup> in Burlington.

Mr. Wolfe took a few minute to mention the hiring/funding freeze as it relates to the measurement program. The freeze caps contracts to \$5,000 and this program costs just over that amount. He suggested that the Districts write letters to the Governor expressing their concern over the funding freeze and said that he would work on requesting an exemption from the freeze for this program.

Mr. Max Smith reported for the **Southern High Plains GWMD**. With the August and October moisture they have, for the first time in a number of years, winter wheat growing. Due to the moisture and cool temperatures the corn harvest is only about 75% complete. It was a long hot summer but the eight (8) inches of moisture in August bailed them out.

There was no report for **North Kiowa-Bijou GWMD**.

There was no report for the **Upper Black Squirrel Creek GWMD**.

There was no report for the **Upper Big Sandy GWMD**.

Mr. Thomas Sauter reported for the **Lost Creek GWMD**. He thanked the Commission for approving the amendment to Rule 7.7.4 noting that it will help the District a lot. He also reported that the District has initiated a water recharge study and have applied for funding from the roundtables and hope that the CWCB will fund the study in January.

Mr. Stan Murphy reported for the **Republican River Water Conservation District**. Mr. Murphy first thanked the Commission for amending Rule 7.7.4. He compared the path to compliance like a circuitous road with a lot of dips, hills and road blocks, the solution to one issue being dependant on the result of the previous one. Mr. Murphy reported that design of the compliance pipeline is 95% complete and on budget. He detailed the tax fee increases for irrigators and the increases in usage fees for commercial and municipal water users. The new fees should generate about 6 million dollars a year to pay for the pipeline. These fees do not include those approved by the voters when they passed the bond issue to purchase the surface water rights. He concluded by saying the Arikaree position on the District Board is currently vacant.

Chairman Smith asked for clarification on the cost of the pipeline. Mr. Murphy responded that it is 71 million dollars, including the water rights.

Commissioner Davis took a few minutes to underscore the importance of the Compact Compliance Pipeline and to indicate that everybody, including the state, is doing everything that they can to make the pipeline happen.

**Chairman Smith called for agenda item no. 9,** there was no old business.

**Chairman Smith called for agenda item no. 10,** under new business Chairman Smith read the following resolution thanking Frank Jaeger for his service with the Commission. Commissioner Coryell moved to adopt the resolution which was seconded by Commission Bledsoe. The motion passed unanimously.

RESOLUTION  
OF THE  
COLORADO GROUND WATER COMMISSION

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WHEREAS, Frank Jaeger has served as a member of the Colorado Ground Water Commission under two separate gubernatorial appointments for a total of six years; and

WHEREAS, during his tenure as Commissioner, Mr. Jaeger served the interests of the State of Colorado and the ground water users of the state;

NOW, THEREFORE, BE IT RESOLVED that the Colorado Ground Water Commission hereby expresses its gratitude and appreciation to Robert Loose for his devoted service to the Ground Water Commission and to the people of the State of Colorado and extends its best wishes to Mr. Jaeger in all his future endeavors.

DONE at the regular meeting of the Colorado Ground Water Commission, November 21, 2008, in Denver, Colorado.

In other new business Chairman Smith presented Dave Keeler with a plaque and certificate recognizing him as Water Commissioner of the Year for Water Division 1.

Also under new business, the Commission accepted February 20<sup>th</sup>, May 15<sup>th</sup>, August 21<sup>st</sup> and November 20<sup>th</sup> as the meeting dates for 2009. Secretary Nielsen was directed to look into the feasibility of using the Division of Wildlife conference room at the Wildlife Experience Museum on Peoria and Lincoln Ave in Douglas County for the Commission meetings.

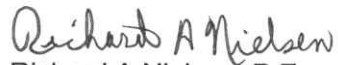


Commissioner Shriver applauded the selection of Mr. Sullivan as Deputy State Engineer. He has worked closely with him and believes that he will do a great job. The Valley will miss him.

**There were no public comments.**

Commissioner Mikita moved to adjourn. Commissioner Coryell seconded the motion which carried unanimously. There being no further business before the Commission the meeting adjourned at 1:00 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Richard A Nielsen".

Richard A Nielsen, P.E.

Secretary to the Ground Water Commission